



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

Regulatory Branch
1455 Market Street
San Francisco, CA 94103-1398

PUBLIC NOTICE

NUMBER: 26934N

DATE: April 18, 2007

RESPONSE REQUIRED BY: May 18, 2007

PROJECT MANAGER: Bryan Matsumoto

PHONE: 415-503-6786

Email: Bryan.T.Matsumoto@usace.army.mil

1. **INTRODUCTION:** Ghilotti Construction Company, Mr. Richard W. Ghilotti, 246 Ghillotti Avenue, Santa Rosa, California 95407, (707)585-1221, through their agent, Ms. Lucy Macmillan, 28 Bernard Street #4, Mill Valley, California, 94941, (415) 389-9199, has applied to the United States Army Corps of Engineers (Corps) for a Department of the Army after-the-fact permit to expand the Ghilotti construction yard on an approximately 20-acre parcel located at 304 Todd Road in the City of Santa Rosa, Sonoma County, California. This project has permanently filled 4.04 acres of seasonal wetlands. The duration of the authorization, should it be accepted, would be for 5 years from the date of the permit issuance. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site: As stated above, the project is located at 304 Todd Road in the City of Santa Rosa, Sonoma County, California (APN 134-171-050) (Enclosure 1). The site is bordered to the north by Todd Road and on the south and east by the Shamrock Operational Facility. The site is level with constructed drainage channels on the western, eastern, and southern property boundaries. It is currently used as a construction yard. Materials stored on the site include clean fill material, recycled concrete, and other construction materials for a variety of projects in the area. Historically, the site was vacant and had been farmed or grazed.

The project site generally drains to the south/southwest, and receives a majority of water from direct precipitation. The only current wetlands that exist on the property are the 1.58 acres of drainage channels around the border of the site that flow into a swale on the adjacent property. Vegetation within these channels consists of water plantain (*Alisma plantago-aquatica*), a variety of rushes (*Juncus* spp.), penny royal (*Mentha pulegium*), flat nut sedge (*Cyperus eragrostis*), and curly dock (*Rumex crispus*). A study of the adjacent parcels and aerial photos were used to determine the approximate acreage of wetlands on the site prior to the unauthorized fill activities. The study determined that the site contained 4.04 acres of seasonal wetlands (Enclosure 2). Based on this study, vegetation in the wetlands on the project site would match that of wetlands on surrounding sites. Vegetation in the wetlands on the adjacent parcels consisted of California coyote-thistle (*Eryngium aristulatum*), Mediterranean barley (*Hordeum hystris*), Italian rye grass (*Lolium perenne*), semaphore grass (*Pleuropogon californicus*), curly dock (*Rumex crispus*), hyssop loosestrife (*Lythrum hyssopifolia*), and penny royal. A habitat quality evaluation has been completed for the project site, and it has been categorized as "low quality" habitat.

Project Description: As shown on the attached drawings, the applicant graded the site level to allow additional storage space for construction materials (Enclosures 3 and 4). To accommodate the project, 90,000 cubic yards of fill material was imported to fill all wetlands on site.

Purpose and Need: The basic project purpose was to create an area suitable for the storage of various construction material and equipment. The overall project purpose was to create an area suitable for the storage of various construction material and equipment in close proximity to existing Ghilotti facilities and Highway 101 in Sonoma County.

The applicant states that at the times the project was completed there was an increased need within the Sonoma County region for construction material storage facilities.

Impacts: The project resulted in the permanent loss of approximately 4.04 acres of seasonal wetland. 0.94 acre of seasonal wetland was filled in the summer of 1984 and 3.1 acres of seasonal wetlands was filled in the summer of 1998.

Mitigation: Mitigation will be required for only the 3.1 acres of seasonal wetlands that were filled in the summer of 1998. It is highly unlikely that mitigation would have been required for the 0.94 acres that were filled in 1984 due to the regulations of that time period, and the relatively minor impact it was considered.

The applicant has proposed to mitigate off site at the 50.21 acre Terra Bagnata site along with another project along Todd Road which has proposed to permanently fill 4.4 acres of jurisdictional wetlands. The Terra Bagnata site is located three miles southwest of downtown Santa Rosa, south of the west end of Butler Avenue, west of Phillips Avenue and north of Todd Road in the City of Santa Rosa (APNs 134-051-016 and 134-051-005) (Enclosure 1). A total of 8.71 acres of jurisdictional wetlands exists on site, of which, 2.6 acres qualified as high quality habitat due to the presence of the California tiger salamander (*Ambystoma californiense*) (CTS), and Sebastopol meadowfoam (*Limnanthes vinculans*). Based on discussions with the Corps, U.S. Fish and Wildlife Service (USFWS), Environmental Protection Agency (EPA), North Coast Regional Water Quality Control Board (RWQCB), and the

California Department of Fish and Game (DFG), the applicant proposes to create 10.24 acres of wetlands, enhance 6.58 acres of wetlands, and preserve 2.13 acres of high quality wetlands (Enclosures 5-7). Monitoring of the site will be completed for a minimum of 5 years.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the FWS and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat.

Species and critical habitat currently identified as potentially impacted by the proposed project include; Sonoma sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), Sebastopol meadowfoam, many-flowered navarretia (*Navarretia leucocephala* ssp. *Plieantha*), and CTS. A search of the CNDDDB found a sighting of CTS on the project site in 2003, along with a CTS observation on the mitigation site in 2005, Sebastopol meadowfoam (2004) and Sonoma sunshine (1993).

Magnuson-Stevens Fisheries Conservation and Management Act: The NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Due to the absence of EFH on the project site, no consultation for EFH will be completed.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the North Coast Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent. The applicant has submitted an Analysis of Alternatives and has been informed that such an Analysis is

required and will be reviewed for compliance with the guidelines.

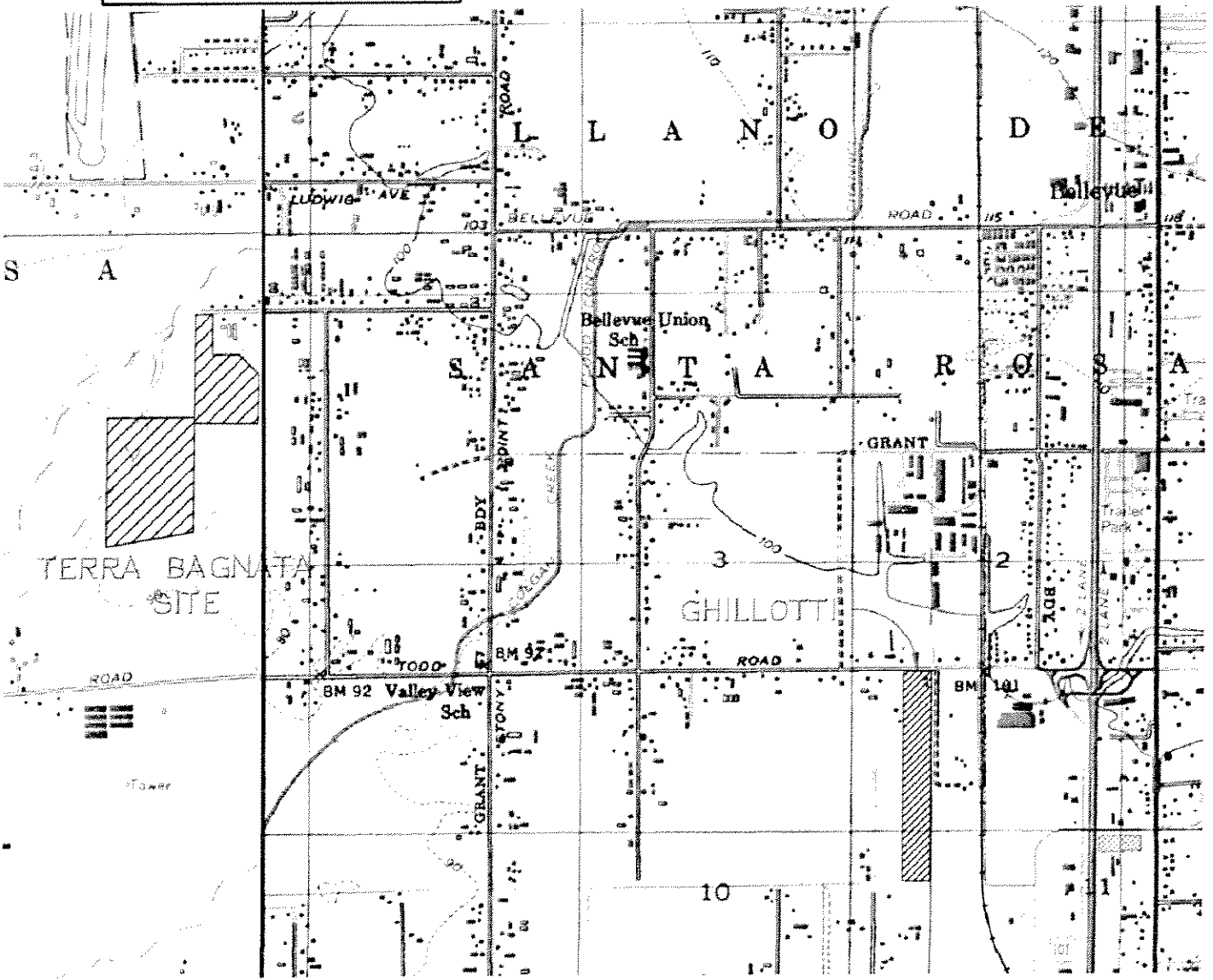
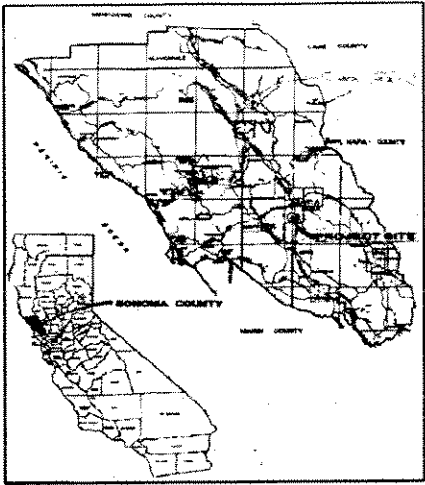
National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality,

general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

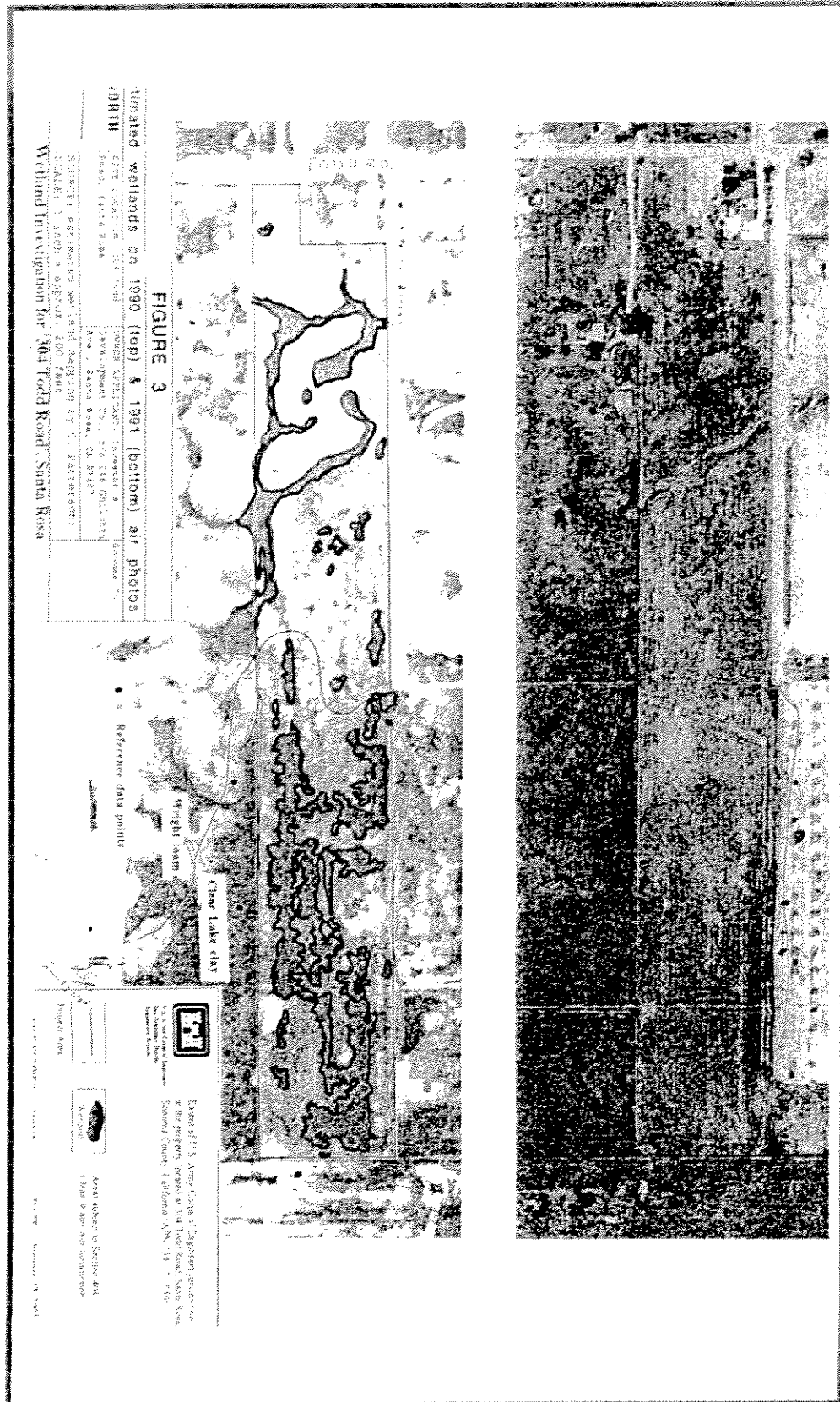
6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Bryan Matsumoto of our office at telephone 415-503-6786 or E-mail: Bryan.T.Matsumoto@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.



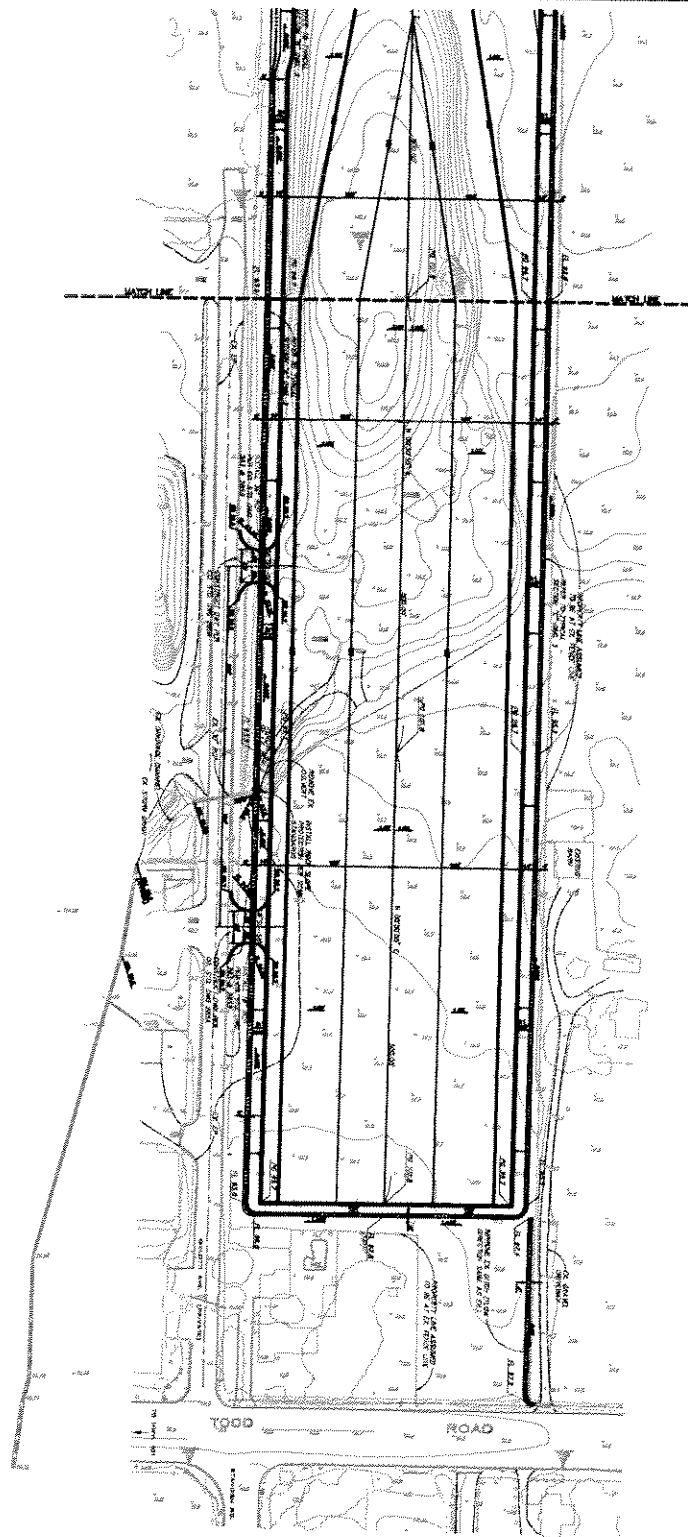
CHECKED DATE: 2.10.07 BY: CNB REVISION: DATE: BY:	NORTH SCALE NTS	SHEET TITLE: TERRA BAGNATA MITIGATION SITE SONOMA COUNTY, CALIFORNIA VICINITY MAP	CLIENT: Terra Bagnata, LLC David L. Apple P.O. Box 308044 Petaluma, CA 94973-8044 TEL (707) 761-8952 FAX 305.000.0000	PREPARED BY: RESTORATION RESOURCES 3088 COMMERCIAL AVENUE SUCCELA, CA 95966 TEL 916.436.2580 FAX 916.436.2589 www.restorationresources.com CAUC #429252

Extent of U.S. Army Corps of Engineers Jurisdiction
304 Todd Road, Sonoma County, CA
Corps File No. 26934N

Scale reduced 50 percent from original
January 23, 2003
← North



0
200
400
scale
1" = 200'
feet
MAY 1998



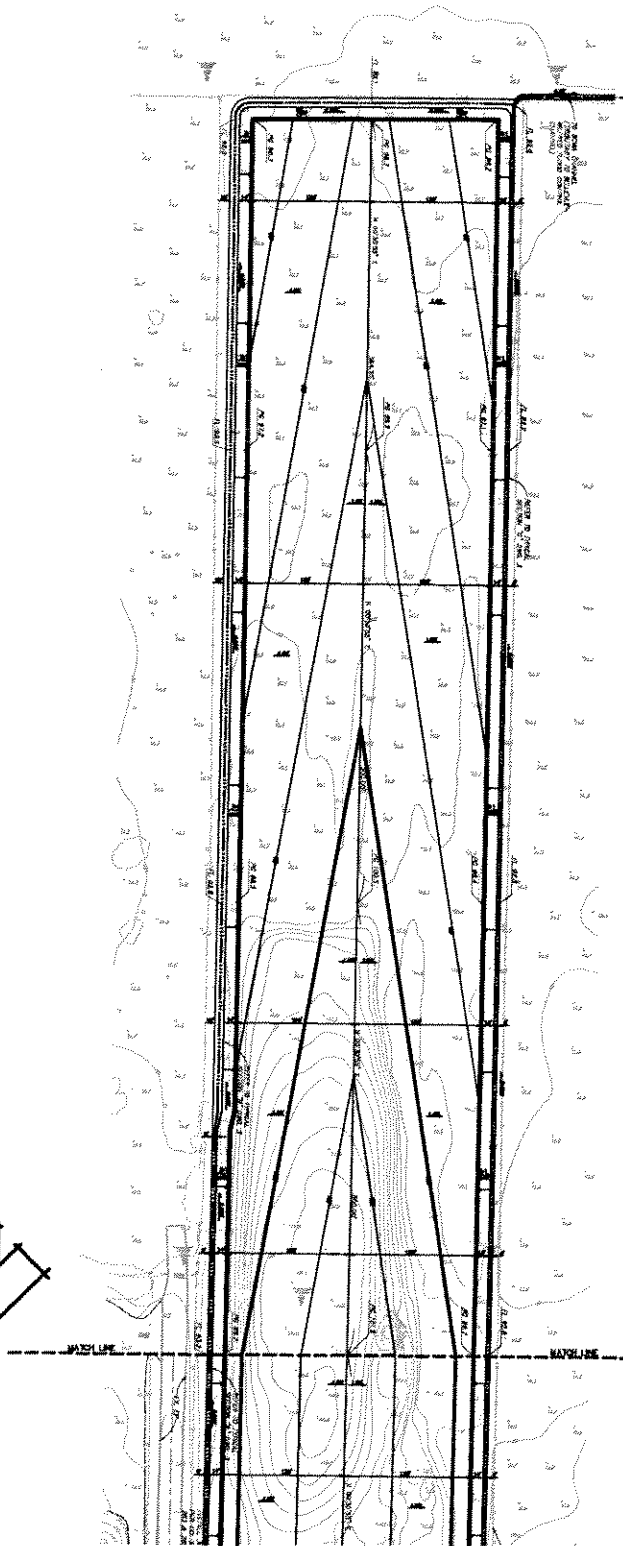
304 TODD ROAD
LOCATED IN
SANTA ROSA, SONOMA COUNTY

GHILOTTI PROPERTY

GRADING PLAN

CORPS FILE NO. 26934N

0 200 400
 scale
 1" = 200'
 feet
 MAY 1998

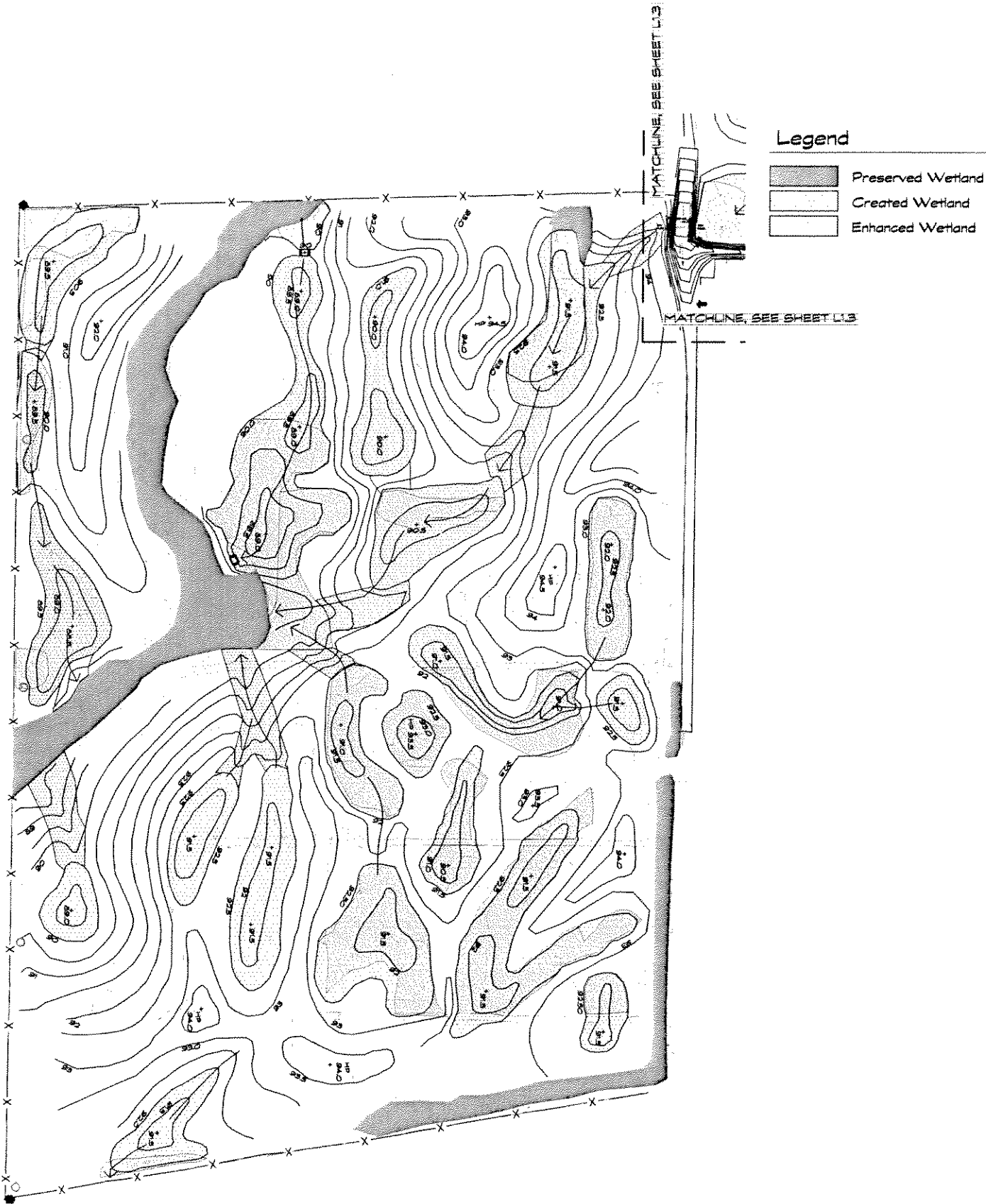


304 TODD ROAD
 LOCATED IN
SANTA ROSA, SONOMA COUNTY

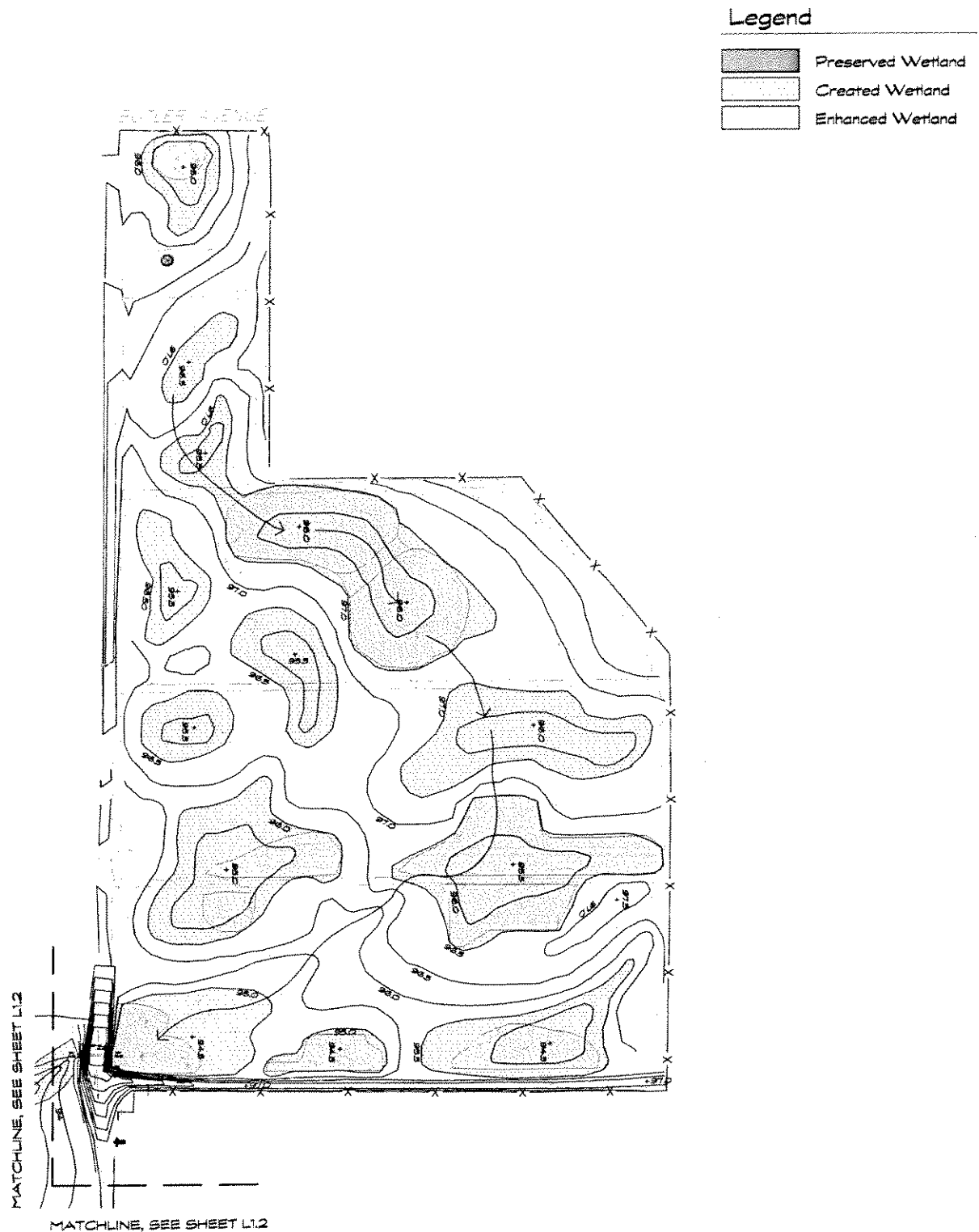
GHILOTTI PROPERTY



GRADING PLAN

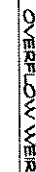
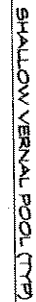
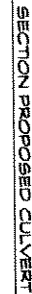
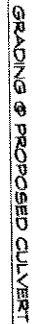
CORPS FILE NO. 26934N



<p>CHECKED: [] DATE: []</p> <p>ORIGINAL DATE: 2.10.07</p> <p>DATE: []</p> <p>SCALE: 1"=200'</p>	<p>NORTH</p> <p>↑</p>	<p>SHEET TITLE:</p> <p>TERRA BAGNATA MITIGATION SITE</p> <p>SONOMA COUNTY, CALIFORNIA</p> <p>GRADING PLAN</p>	<p>CLIENT:</p> <p>Terra Bagnata, LLC</p> <p>David L. Niggle</p> <p>P.O. Box 80804</p> <p>Petaluma, CA 94953-8044</p> <p>TEL (707) 781-9000</p> <p>FAX (707) 781-9000</p>	<p>PREPARED BY:</p> <p>RESTORATION RESOURCES</p> <p>3888 CINCINNATI AVENUE</p> <p>ROCKVILLE, CA 94788</p> <p>TEL 916-408-2000</p> <p>FAX 916-408-2000</p> <p>WWW.RESTORATIONRESOURCES.NET</p> <p>CA LIC #429252</p>	
--	-----------------------	---	---	--	--



DRAWING NO. 2-10-07	DATE 2-10-07	NORTH 	SHEET TITLE <h2 style="text-align: center;">TERRA BAGNATA MITIGATION SITE</h2> <p style="text-align: center;">SONOMA COUNTY, CALIFORNIA</p> <h3 style="text-align: center;">GRADING PLAN</h3>	CLIENT Terra Bagnata, LLC David L. Koppa P.O. Box 50544 Petaluma, CA 94951-4044 TEL (707) 761-4461 FAX (707) 761-4461	PREPARED BY <h3 style="text-align: center;">RESTORATION RESOURCES</h3>  <p style="text-align: center;">3068 CRAWFORD AVENUE ROCKLIN, CA 95765 TEL 916.458.2980 FAX 916.458.2986 www.restorationresources.com CA LIC. #429252</p>
------------------------	-----------------	--	--	---	--



PREPARED BY:
**RESTORATION
RESOURCES**
3889 CHINCINNATI AVENUE
ROCKLIN, CA 95765
TEL 916.408.2900
FAX 916.408.2648
www.restorationresources.net
CA LIC. #429252